IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 3RD OCTOBER 2006 / 11TH ASWINA 1928

CRL.A.No. 221 of 2005(B)

AGAINST THE ORDER IN CRLP.3/2005 Dated 06/01/2005
CC.639/2002 of JUDL. MAGISTRATE OF FIRST CLASS-V, KOZHIKODE

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APPELLANT:

SOUDHAMINI AMMA, KOYAR KANDY HOUSE,
KOLATHARA P.O., CHERUVANNUR,
KOZHIKODE.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS:

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1. SUDHAKARAN, S/O.CHEKKU,
S.B.T.FEROKE, FEROKE P.O.,
KOZHIKODE.

2. STATE OF KERALA REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR K.S. SIVAKUMAR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 03/10/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M.JAMES, J.

CRL.A. 221/2005

DATED THIS THE 3RD DAY OF OCTOBER, 2006

JUDGMENT

The complainant, in C.C.No.639/2002 on the file of the Judicial Magistrate of First Class-V, Kozhikode, is the appellant. The complaint was preferred under Section 138 of the Negotiable Instruments Act, in short 'the Act'. Because of the absence of the complainant, the accused was acquitted, under Section 256(1) Cr.P.C. Hence this appeal.

2. I had gone through the records. The appeal was admitted, after granting special leave. The impugned order, dated 11.10.2004, show that 'complainant absent. No representation. Complaint dismissed. Accused is acquitted u/s 256(1) Cr.P.C.'

3. After considering the records, I am of the opinion that an opportunity be given to both the parties to contest the matter. Therefore, I set aside the impugned order dated 11.10.2004, and restore C.C.No.639/2002,

on the file of the Judicial Magistrate of First Class-V, Kozhikode.

4. The learned Magistrate shall dispose of the matter as expeditiously as possible, in any case within three months from the date of appearance of the parties.

5. The parties shall appear before the Court below on 3.11.2006.

The appeal is disposed of as above.

J.M.JAMES
JUDGE

mrcs